

**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MICHIGAN (Bay City)**

In re:
Brian D Pierce

Debtor.

Case No. 23-20791-dob
Chapter 7
Hon. Daniel S. Opperman.BayCity

/

**MOTION FOR RELIEF FROM THE AUTOMATIC STAY AND ENTRY OF
ORDER WAIVING THE PROVISION OF FRBP 4001(A)(3)**

NOW COMES Specialized Loan Servicing LLC, by and through its attorneys, Trott Law, P.C., and shows unto this Honorable Court as follows:

1. That Movant is a holder of a mortgage on property owned by the Debtor(s) and located at 5816 Windy Gyle, Midland, MI 48640-6945 (see attached copy of loan document(s));
2. That the Debtor(s) filed Chapter 7 Bankruptcy on July 12, 2023;
3. That pursuant to 11 U.S.C. § 362(d)(1), upon request of a party in interest, the court shall grant relief from stay for cause, including lack of adequate protection of such party in interest;
4. That pursuant to the mortgage agreement, the Debtor(s) are required to remit monthly payments to Movant currently in the amount of \$3,849.89;
5. That Trott Law, P.C. has been informed by Movant that, the Debtor(s) has failed to remit the required payments;
6. That Movant is not adequately protected as the direct payments are not being remitted and the loan is currently thirty five (35) months in default, due and owing for October 1, 2020, for a total payment delinquency of \$128,995.67 which includes any suspense. At the time of the default, the payment amount was \$3,518.65. Payment amounts may have changed since that time;
7. That pursuant to the Statement of Intention, the subject property is to be surrendered;

TROTT LAW, P.C.
31440 NORTHWESTERN
HWY
STE. 145
FARMINGTON HILLS, MI
48334-5422
PHONE 248.642.2515
FACSIMILE 248.642.3628

8. That pursuant to 11 U.S.C. § 362(d)(2)(A) and (B), the Court shall grant relief from the stay if the Debtors do not have any equity in the property and the property is not necessary to an effective reorganization;

9. That the approximate market value of the subject property is \$450,000.00, according to Debtor's Schedule A/B;

10. That as of August 9, 2023, the total debt owing to Movant was approximately \$442,812.95;

11. Movant is also entitled to Movant's attorney fees and costs for filing this motion;

12. That Melanie Monica Pesta may have an interest in the subject property to the knowledge and belief of Movant;

13. That to the knowledge and belief of Movant, Barbara Smith may have an additional \$50,000.00 interest, Internal Revenue Service may have an additional \$106,831.00 interest, State of Michigan Department of Treasury may have an additional \$13,171.00 interest, Allison Mundy Pierce nka Reynolds may have an additional \$50,013.04 interest and The Handlon Eastman Law Firm may have an additional \$2,620.80 interest in the subject property;

14. That no other creditor will receive any benefit from the sale of the subject property;

15. Movant requests termination of the automatic stay of 11 U.S.C. § 362(a) to allow Movant (and any successors or assigns) to proceed under applicable non-bankruptcy law to enforce its remedies to foreclose upon and/or obtain possession of the property.

16. That in the event the automatic stay is terminated to allow Movant to commence or continue its federal and/or state law rights as to the property, and Movant deems the property is physically abandoned by the debtor(s)/homeowner(s), or by consent of the

TROTT LAW, P.C.
31440 NORTHWESTERN
HWY
STE. 145
FARMINGTON HILLS, MI
48334-5422
PHONE 248.642.2515
FACSIMILE 248.642.3628

debtor(s)/homeowner(s), Movant may also seek to shorten the Michigan post foreclosure statutory redemption period.

17. That Movant and/or its successors and assigns further seeks relief in order to, at its option, offer, provide and enter into any potential forbearance agreement, loan modification, refinance agreement, deed in lieu of foreclosure/short sale, or other loss mitigation solution. That Movant may contact the Debtor via telephone or written correspondence to offer such an agreement.

18. Specialized Loan Servicing LLC services the loan on the Property referenced in this Motion. In the event the automatic stay in this case is modified, this case dismisses, and/or the Debtor obtains a discharge and a foreclosure action is commenced on the mortgaged property, the foreclosure will be conducted in the name of Movant or Movant's successor or assignee. Movant, directly or through an agent, has possession of the Note. The Note is either made payable to Movant or has been duly endorsed. Movant is the original mortgagee or beneficiary or the assignee of the Mortgage/Deed of Trust.

19. Debtor(s) executed a promissory note secured by a mortgage or deed of trust. The promissory note is either made payable to Movant, has been duly indorsed, or Movant, directly or through an agent has possession of the promissory note and may enforce the promissory note as a transferee in possession. Movant is the original mortgagee or beneficiary or the assignee of the mortgage or deed of trust. If the original promissory note is lost or destroyed, then Movant will seek to prove the promissory note using a lost note affidavit.

20. That pursuant to Local Bankruptcy Rule 9014-1(b)(1), attached is a copy of the proposed ORDER GRANTING RELIEF FROM THE AUTOMATIC STAY AND WAIVING THE PROVISION OF FRBP 4001(a)(3) labeled as Exhibit "1";

TROTT LAW, P.C.
31440 NORTHWESTERN
HWY
STE. 145
FARMINGTON HILLS, MI
48334-5422
PHONE 248.642.2515
FACSIMILE 248.642.3628

21. That in the event a hearing on this motion is held and after said hearing the Court orders submission of an order in substantial compliance with Exhibit 1, presentment of said order shall be waived;

22. Concurrence from debtor's attorney and from Chapter 7 trustee was sought by Movant's attorney's office on August 10, 2023 and concurrence was not able to be obtained from all parties.

WHEREFORE, Movant respectfully requests that the Court enter an ORDER GRANTING RELIEF FROM THE AUTOMATIC STAY AND WAIVING THE PROVISION OF FRBP 4001(a)(3) for good cause shown pursuant to 11 U.S.C. §362(d)(1) and/or (d)(2), and that the Order is effective immediately upon entry by this Court notwithstanding the provision of FRBP 4001(a)(3); and whatever other relief the Court deems just and equitable.

Respectfully Submitted,
Trott Law, P.C.

Dated: August 11, 2023

/s/ Heather Burnard

~~Scott A. Gies (P56346)~~

Heather Burnard (P66321)

~~Robert J. Shefferly (P67477)~~

Attorney for Specialized Loan Servicing LLC

31440 Northwestern Hwy Ste. 145

Farmington Hills, MI 48334-5422

Phone: 248.642.2515

Email: EasternECF@trottlaw.com

TROTT LAW, P.C.
31440 NORTHWESTERN
HWY
STE. 145
FARMINGTON HILLS, MI
48334-5422
PHONE 248.642.2515
FACSIMILE 248.642.3628

Trott #511104B03

EXHIBIT 1

**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MICHIGAN (Bay City)**

In re:
Brian D Pierce

Debtor.

Case No. 23-20791-dob
Chapter 7
Hon. Daniel S. Opperman.BayCity

**ORDER GRANTING RELIEF FROM THE AUTOMATIC STAY AND WAIVING THE PROVISION
OF FRBP 4001(a)(3)**

Movant, Specialized Loan Servicing LLC, by and through its attorneys, Trott Law, P.C., having filed a Motion For Relief From The Automatic Stay with respect to the property located at 5816 Windy Gyle, Midland, MI 48640-6945; and the approximate market value of the property is \$450,000.00 according to Debtor's Schedule A/B; and as of August 9, 2023, the debt owing was approximately \$442,812.95, and Movant may recover Movant's Attorney fees and costs for filing this Motion; and, after the mortgage has been satisfied, any surplus on the sale of this property shall be distributed pursuant to applicable law and procedures; and any deficiency on the sale of this property shall be treated as an unsecured debt; and the Court being in receipt of the Motion, and the Court being fully advised in the premises:

IT IS HEREBY ORDERED that the Automatic Stay is hereby terminated as to Movant with respect to the property located at 5816 Windy Gyle, Midland, MI 48640-6945 to allow Creditor to commence or continue its federal and/or state law rights to the property. In the event Creditor deems the property is physically abandoned by the debtor(s)/homeowner(s), or by consent of the debtor(s)/homeowner(s), Creditor may also seek to shorten the Michigan post foreclosure statutory redemption period. Movant and/or its successors and assigns may, at its option, offer, provide and enter into a potential forbearance agreement, loan modification, refinance agreement, deed in lieu of foreclosure/short sale or other loss mitigation solution. The Movant may contact the Debtor via telephone or written correspondence to offer such an agreement. This Order is effective immediately upon entry by this Court notwithstanding the provision of FRBP 4001(a)(3). This Order shall be binding and effective despite any conversion of this bankruptcy case to a case under any other chapter of Title 11 of the United States Bankruptcy Code.